

Michigan Court of Appeals

DOCKETING STATEMENT

Case No:
Circuit: 2005-071090-NO
Court of Appeals: 278406

Please read before completing form.

- MCR 7.204(H) and 7.205(D)(3) require an **appellant** in a civil action to complete and file a docketing statement within 28 days after the claim of appeal is filed or the application for leave to appeal is granted. Failure to timely file this document may lead to dismissal of the appeal. An appellee may respond by filing a separate docketing statement.
- This document will be used to screen the appeal for suitability and eligibility for the settlement conference program, and will be used to help resolve jurisdictional and transcript issues. It is important that you complete this form accurately and legibly.
- The issues identified in the docketing statement do not limit appellant's presentation of the issues in appellant's brief. Omission of an issue in the docketing statement will not provide a basis for a motion to strike appellant's brief.

1. Case Name:

Stella Mack ☒ Appellant
☐ Appellee

Name of first Plaintiff

Address: 3359 Croissant, Dearborn, MI 48124

Telephone No: (313) 563-0195

Attorney Name: Donald Fulkerson Bar No: 35785

Address: P.O. Box 85395, Westland, MI 48185

Telephone No: (734) 467-5620

v

The Troy City Schools Bd of Ed ☐ Appellant
☒ Appellee

Name of first Defendant

Address:

Telephone No:

Attorney Name: Neil H. Goodman Bar No: 30751

Address: 255 S. Old Woodward Ave, 3rd Fl
Birmingham, MI 48009-6179

Telephone No: (248) 642-9692

2. ☐ A bankruptcy or other proceeding has been filed which affects this Court's jurisdiction over this appeal.

Identify and explain.

3. ☒ There are pending or prior appeals in the Court of Appeals or Supreme Court which arose out of the same transaction, lower court case, or between the same parties.

Specify case name, lower court number, appellate court number(s), and citation, if available.
COA No. 274123 (appeal dismissed pending entry of final circuit court order)

4. ☐ I am aware of the following pending appeals in the Court of Appeals or Supreme Court raising the same or closely related issues.

Specify case name, lower court number, appellate court number(s), and citation, if available.

5. Identify **all** the lower court hearings.

Type of proceeding (i.e. motion, trial, etc.)	Date(s) Occurred	Court Reporter
Motion	10/11/06	Sandra Traskos (transcript filed)

6. **Nature of case:**

a. If the lower court case number provided on page 1 does not include a suffix, please specify the circuit court case code (i.e. NI, CK, etc): _____.

b. Identify the procedural nature of the case being appealed.

- ☐ arbitration ☐ bench trial ☐ post-judgment action ☐ declaratory judgment
☐ interlocutory matter ☐ jury trial ☒ summary disposition
☐ administrative proceeding (specify agency) _____
☐ other (i.e. default judgment) _____

7. Briefly describe the nature of the action and the result in the trial court. Conclusory statements such as "the judgment of the trial court is not supported by law" are unacceptable. Attach additional pages as needed.

Plaintiff was seriously injured while attending a dance recital at the Troy High School when she fell at an unmarked drop-off in the auditorium. Plaintiff filed premises liability/negligence claims against the Troy Bd of Ed, which owned the building, and TDS and Bodyworks, who held the recital. Both Defendants moved for summary disposition. The Bd of Ed argued that governmental immunity barred Plaintiff's claim, and that the proprietary function and building defect exceptions did not apply. TDS argued that the drop-off was open and obvious and that it did not have possess/control over the premises or notice of the condition. Plaintiff opposed both motions. The trial court granted both Defendants' motions for summary disposition. After entry of the final order, Plaintiff appealed.

8. Briefly state the issues to be raised in this appeal. Attach additional pages as needed.

- I. Whether the trial court erroneously granted the Troy City Schools Bd of Ed's motion for summary disposition.
 II. Whether the trial court erroneously granted TDS' motion for summary disposition.

9. The amount and terms of the judgment appealed are:

Summary disposition for both Defendants

10. Settlement negotiations. (Check all boxes that apply.)

- ☐ Settlement negotiations have been conducted or are scheduled.
☒ Settlement is unlikely.
☐ Other _____

6/28/06
Date

Signature

Provide the Proof of Service on a separate form.

STATE OF MICHIGAN
IN THE COURT OF APPEALS

STELLA MACK,

Plaintiff-Appellant,

v

THE TROY CITY SCHOOLS BOARD OF
EDUCATION, and TDS AND
BODYWORKS LLC, d/b/a TROY DANCE
STUDIO,

Defendants-Appellees.

Court of Appeals No. 278406

Oakland County Circuit Court
Case No. 05-071090-NO

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PROOF OF SERVICE

Donald M. Fulkerson, by his signature, verifies that, on June 28, 2007, by first class or priority mail, he served Plaintiff-Appellant's docketing statement and this proof of service on Martin Gary Deutch, 27200 Lahser Road, Suite 101, Southfield, MI 48037-2207; Neil H. Goodman, 255 S. Old Woodward Ave, 3rd Floor, Birmingham, MI 48009-6179; and Mary T. Doll, 25300 Telegraph Road, Suite 360, Southfield, MI 48037.


Donald M. Fulkerson

Dated: June 28, 2007

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